

MARADHUL MAUT



**"Death will find you wherever you are
even if you are in strong fortified lofty
towers."
(Qur'aan)**

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MARADHUL MAUT

The final sickness in which Maut (Death) occurs is called *Maradhul Maut*. It is the illness from which a person does not recover. The Shariah does not fully recognize a person's monetary operations during *Maradhul Maut*. For example, gifts made to heirs during *Maradhul Maut* will not be valid. Charitable endowments made during this state of illness come within the scope of Wasiyyat which is effective in one third the value of the estate.

An illness which lasts for a year or more will not be termed *Maradhul Maut*. When such a person's illness deteriorates leading to his death, the *Maradhul Maut* will be from the time of deterioration.

If during an illness a person is able to perform Salaat as usual and is able to attend to other duties, then such sickness will not be *Maradhul Maut*. This person's *Maradhul Maut* will commence from the time his sickness deteriorates, confining him to bed.

A sickness could be prolonged, extending over a period of years, e.g. a man has cancer for few years. However, he carries on normally with his daily activities. His *Maradhul Maut* will begin from the time he is incapacitated and confined to bed.

TWO ESSAYS

(1) RESPONSE TO AN IFTA' STUDENT'S QUERY

(2) RESPONSE TO A BUZRUG'S OBJECTION

RESPONSE TO AN IFTA' STUDENT'S QUERY

The Student's letter of Query:

I am currently studying the Iftaa course.

I make Du'ā that Allāh Ta'ālā keep Hadhrat's shadow on us for a very long time. Āmīn.

At the moment, I am working on a Tahqīq regarding the actual definition of Maradh al-Maut and its circumstances. I have read Hadhrat Moulāna's research on Maradh al-Maut in Hadhrat's Kitāb "Kitaabul-Meerāth". I have benefitted tremendously from the Kitāb.

There are however two issues regarding which I request Hadhrat Moulānā's assistance.

It is commonly known that the Maradh al-Maut is the last sickness that actually killed the deceased person. For example, if one is afflicted with terminal cancer, but passes away due to a heart attack, the terminal cancer is not the Maradh al-Maut since it was not the direct cause of death. Rather it was the heart attack.

However, my understanding of the issue is as follows:

If an individual is afflicted with a terminal illness, and he passes away during the sickness, this sickness is considered Maradh al-Maut. This ruling is applicable whether the individual passed away due to the sickness or any other reason, as long as he did not recover from the initial sickness. The

cancer in the above scenario was terminal and he never recovered from it. Even though he may have passed away due to the heart attack, the cancer is still ruled as Maradh al-Maut.

The following texts indicate this:

(قَالَ) : وَإِذَا طَلَّقَهَا فِي مَرَضِهِ، ثُمَّ قُتِلَ، أَوْ مَاتَ مِنْ غَيْرِ ذَلِكَ الْمَرَضِ غَيْرَ أَنَّهُ لَمْ يَصِحَّ فَلَهَا الْمِيرَاثُ، وَكَانَ عِيسَى بْنُ أَبَانَ يَقُولُ: لَا مِيرَاثَ لَهَا؛ لِأَنَّ مَرَضَ الْمَوْتِ مَا يَكُونُ سَبَبًا لِلْمَوْتِ، وَلَمَّا مَاتَ بِسَبَبٍ آخَرَ فَقَدْ عَلِمْنَا أَنَّ مَرَضَهُ لَمْ يَكُنْ مَرَضَ الْمَوْتِ، وَإِنَّ حَقَّهَا لَمْ يَكُنْ مُتَعَلِّقًا بِمَالِهِ يَوْمَئِذٍ، فَهُوَ كَمَا لَوْ طَلَّقَهَا فِي صِحَّتِهِ، وَلَكِنَّا نَقُولُ: قَدْ اتَّصَلَ الْمَوْتُ بِمَرَضِهِ حِينَ لَمْ يَصِحَّ حَتَّى مَاتَ، وَقَدْ يَكُونُ لِلْمَوْتِ سَبَبَانِ فَلَا يُتَبَيَّنُ هَذَا أَنَّ مَرَضَهُ لَمْ يَكُنْ مَرَضَ الْمَوْتِ، وَأَنَّ حَقَّهَا لَمْ يَكُنْ ثَابِتًا فِي مَالِهِ، وَقَدْ بَيَّنَّا أَنَّ إِرْثَهَا مِنْهُ بِحُكْمِ الْفِرَارِ، وَهُوَ مُتَحَقِّقٌ هُنَا. (مبسوط، ج 6، ص 168)

وَقَوْلُهُ إِنْ مَاتَ فِي ذَلِكَ الْوَجْهِ أَوْ قُتِلَ دَلِيلٌ عَلَى أَنَّهُ لَا فَرْقَ بَيْنَ مَا إِذَا مَاتَ بِذَلِكَ السَّبَبِ أَوْ بِسَبَبٍ آخَرَ كَالْمَرِيضِ إِذَا قُتِلَ وَفِيهِ خِلَافٌ عِيسَى بْنُ أَبَانَ هُوَ يَقُولُ إِنَّ مَرَضَ الْمَوْتِ مَا يَكُونُ سَبَبًا

لِلْمَوْتِ وَلَمَّا مَاتَ بِسَبَبٍ آخَرَ عَلِمْنَا أَنَّ مَرَضَهُ لَمْ يَكُنْ مَرَضَ
 الْمَوْتِ قُلْنَا الْمَوْتُ اتِّصَالَ بِمَرَضِهِ حَيْثُ لَمْ يَصِحَّ حَتَّى مَاتَ وَقَدْ
 يَكُونُ لِلْمَوْتِ سَبَبَانِ فَلَمْ يَتَبَيَّنْ أَنَّ مَرَضَهُ لَمْ يَكُنْ الْمَوْتُ وَأَنَّ حَقَّهَا
 لَمْ يَتَعَلَّقْ بِمَالِهِ (تبيين الحقائق، ج 2، ص 248، مكتبه إمدادية)
 (قَوْلُهُ أَوْ بِسَبَبٍ آخَرَ كَالْمَرِيضِ إِذَا قُتِلَ) ، وَهَذَا ظَاهِرُ الرَّوَايَةِ عَنْ
 أَصْحَابِنَا. اهـ. أَتَّقَانِي. (حاشية الشلبي، ج 2، ص 248)

The second issue is an Ikhtilāf between Allāmah Shāmī and Allāmah Ḥaskafī Rahimahumullāh. In al-Durr al-Mukhtār, Allāmah Haskafī Rahimahullā says that the Maradh al-Maut is only considered if the sick individual is unable to fulfill his duties outside his house. In other words, if he is capable of going to the Masjid for Salāh or the market for shopping, this is not considered Maradh al-Maut. This is also the view of Allāmah Sarakhsī in Mabsūt and Allāmah Shaikhī Zādah in Majma‘ al-Anhur. Hereunder are the texts:

ولا ينفذ تبرعه فيها أي في هذه الحالة إلا من الثلث ما يغلب فيها
 الهلاك أي خوفه وهذا حد للمريض مرض الموت شرعا وهو شامل
 للرجل والمرأة ثم ذكر لتوضيحه ما يختص بالرجل من حد آخر فقال

كمريض يمنعه عن إقامة مصالحه أو عن الذهاب إلى حوائجه خارج البيت

وفي الذخيرة لا عبرة للقدرة في البيت وهذا هو الصحيح (مجمع الأنهر، ج 2، ص 73، دار الكتب العلمية)

(مِنْ غَالِبِ حَالَةِ الْهَلَاكِ بِمَرَضٍ أَوْ غَيْرِهِ بِأَنْ أَضْنَاهُ مَرَضٌ عَجَزَ بِهِ عَنْ إِقَامَةِ مَصَالِحِهِ خَارِجَ الْبَيْتِ) هُوَ الْأَصَحُّ كَعَجَزِ الْفَقِيهِ عَنِ الْإِثْنَانِ إِلَى الْمَسْجِدِ وَعَجَزِ السُّوقِيِّ عَنِ الْإِثْنَانِ إِلَى دُكَّانِهِ. وَفِي حَقِّهَا أَنْ تَعْجَزَ عَنْ مَصَالِحِهَا دَاخِلَهُ كَمَا فِي الْبَزَارِيَّةِ، وَمُفَادُهُ أَنَّهَا لَوْ قَدَرَتْ عَلَى نَحْوِ الطَّبْخِ دُونَ صُعُودِ السَّطْحِ لَمْ تَكُنْ مَرِيضَةً. (الدر المختار، ج 3، ص 384، سعيد)

However Allāmah Shāmi Rahimahullāh differentiates between a terminal sickness and a non-terminal sickness. He says that if an individual is afflicted with a terminal sickness, it will be considered Maradhul Maut even if he is capable of carrying out his duties outside the house. However if the sickness is non-terminal, then Maradhul Maut will only be considered once he

is bedridden, unable to perform his outdoor chores. Hereunder is the text:

وَقَدْ يُوفَّقُ بَيْنَ الْقَوْلَيْنِ، بِأَنَّهُ إِنْ عَلِمَ أَنَّ بِهِ مَرَضًا مُهْلِكًا غَالِيًا وَهُوَ
يَزْدَادُ إِلَى الْمَوْتِ فَهُوَ الْمُعْتَبَرُ، وَإِنْ لَمْ يَعْلَمْ أَنَّهُ مُهْلِكٌ يُعْتَبَرُ الْعَجْزُ
عَنِ الْخُرُوجِ لِلْمَصَالِحِ هَذَا مَا ظَهَرَ لِي. (رد المحتار، ج 3، ص
384، سعيد)

This is also the view of Hadhrat Mufti Shafī Saheb
Rahimahullāh as is stated in Imdād al- Muftīn page 863-864.

Hadhrat (yourself) has mentioned in Kitaabul-Meerāth,
“Similarly, an illness which does not confine a person to bed, is
not Maradhul Maut. If during the illness he is able to perform
Salāt as usual and attend to other duties and activities, such a
sickness will not be Maradhul Maut. His Maradhul Maut
commences from the day he becomes bedridden, ultimately
dying in that illness.”

Regarding the case I am working on at the moment, the
deceased was initially diagnosed with a bone marrow cancer
and was told that if he did not opt for any treatment he is being
given 6-9 months for survival. However if he desired to
undergo treatment in the form of chemotherapy, this would
improve his chances of survival to 2 years depending on the
success of the treatment. Four weeks later, he developed a
complication of heart failure as a result of the chemotherapy.
He passed away due to the heart failure.

The question is whether the bone marrow cancer was considered Maradh al-Maut or not?

If we consider the example of the ship stated by Hadhrat then the cancer is not Maradhul Maut since there was still hope of life due to the treatment. Hadhrat states, "When disaster strikes a ship or aircraft, the Maradhul Maut of passengers will commence from the time when hope of life vanishes."

However, if we consider the reality, death took place within one year of the sickness. Since his cancer was terminal and he passed away one month after the diagnosis, the cancer should be Maradh al-Maut.

This is all if we consider the terminal sickness to be Maradh al-Maut regardless of whether it was the direct cause of death or not. However, if we consider Maradh al-Maut to be the direct cause of death, then the cancer is not Maradh al-Maut, rather it is the heart attack.

Hadhrat's insight on the issue at hand with clarifications regarding the I'bārāt of Maradh al-Maut will be highly appreciated.

JazakAllahu Khairan for the assistance.

Request for Hadhrat's pious Duas.

Wassalām

Response

Please be informed that whatever appears in our *Kitaabul Meeraath*, is what we had extracted from the kutub, and in particular, what Hadhrat Shaikhul Hadith Maulana Asghar Husain (rahmatullah alayh) has written in his kitaab, *Mufeedul Waaritheen*.

The case you are working on is not complicated. The person's sickness of cancer did obviously not commence with his diagnosis a month prior to his Maut. If he had not gone to the doctors, he would not have even been aware that he was suffering from cancer. It appears that he was up and about doing his daily work in and out of the home. Hence, the diagnosis of cancer should not be fixed as his *Maradhul Maut*.

There is no yaqeen in the diagnosis of the doctors. Such cases of incorrect diagnosis abound. Doctors are great opportunists. They hit numerous misses and flounder in blunders. The fact that they undertook the onus to proclaim that by their treatment, he may survive an extra two years, smacks of kufr. Medical treatment cannot prolong life. Maut comes at its fixed time. There is no need to elaborate on this aspect. The kufr of the concept of prolonging life by virtue of medical treatment is conspicuous. Just view their notoriety – if the patient abstains from treatment, they give him 6 – 9 months to live. But if he submits to their treatment, they 'increase' his lifespan by 2 years. Yet, when they subjected him to treatment, he died after a month.

Your difficulty in determining *Maradhul Maut* in the case you are handling is on account of trying to understand the Shar'i meaning of *Maradhul Maut* in the light of the diagnosis of the medical establishment. What the doctors describe as 'terminal illness', is not *Maradhul Maut* which Islamically is very

simple. It is the last illness which confines a man to bed, or an act which is interpreted as the final illness, e.g. execution.

Pay no heed to the diagnosis of doctors. Last week in our daily paper appeared a report of an 18 year old girl whom all the doctors had said would not live when she was born. The doctors gave her one week to survive due to multiple complications of this prematurely born child. Today the child is an 18 year old and has successfully completed her matric and pursuing higher education.

We had an aunt who died about three years ago at the age of almost 90. In about 1955 – more than half a century ago – the several doctors whom she saw had diagnosed cancer. All of them said that she would not survive beyond six months. All the doctors who had passed this kufr verdict had died decades before her. She went on to live to 90 years. And, right until a couple weeks before her demise, she cooked her own food, did her own house-cleaning, etc.

During the course of this year, an acquaintance was diagnosed with cancer. It is obvious that he did not develop the cancer the day he was diagnosed. The day he was diagnosed, the sickness had reached an advanced level of deterioration. Right until a week prior to diagnosis, he was working strongly in the shop, attending to his daily duties without complaint. A couple of months earlier, he slaughtered a bull on the occasion of Bakri Eid. A day or two before being confined to bed, he complained of stomach pains. Now if he had gone to a doctor a year or two years ago, they would have diagnosed cancer, and probably pre-amped Malakul Maut by pronouncing that he would not survive for more than six months. How can we say that his *maradhul maut* commenced with the diagnosis when he was outwardly healthy and strong and doing his daily routines?

There were no signs of sickness on him. If for example, this person had seen a doctor the day he slaughtered the bull, I am positive that cancer would have been confirmed. It will be grossly incorrect to aver that all his transactions in the months following confirmation of cancer are invalid simply on the basis of cancer being a ‘medically’ terminal illness. A person can live for decades after cancer has been diagnosed as is the case with our aunt, and many others.

Recently, a professor at a university was diagnosed with cancer of the liver. At a gathering of professionals – doctors, university staff, lawyers, etc., he gave a speech and mentioned his cancer, saying that he knows that he does not have long to live. But, he was as fit as a fiddle. At the gathering, he demonstrated his physical fitness. He performed a couple of dozen push-ups and some other physical exercises without showing signs of tiredness. Addressing the crowd, he said that despite his cancer, he challenges any one from the crowd to physical combat. Within three months he died. Now how can it be said that his *Maradhul Maut* began from the day he was diagnosed with cancer and all his transactions during this time are invalid? His *Maradhul Maut* began the day he was confined to bed and never again recovered. There is no need to find a disease or a cause to which death could be attributed. *Maradhul Maut* in the Shariah is a simple concept like all other Shar’i concepts. Shar’i concepts are for all and sundry to understand and implement. There is no need to become involved in secular intricacies for understanding Shar’i concepts. The same applies to hilaal sighting. Astronomical calculations are not required for this determination. The same goes with determination of paternity. Forensic evidence, DNT and the like are superfluous and of no validity for determination of Shar’i issues. Technology is not required for Shar’i *Ahkaam*.

Cancer is not *Maradhul Maut*. Similarly, heart sickness, diabetes and all other diseases are not *Maradhul Maut*. If a person does not recover from the time he is incapacitated by illness, then that will be his *Maradhul Maut*.

In the case you are handling, the bone marrow cancer is not the person's *Maradhul Maut*. His *Maradhul Maut* very clearly is the time he was confined to bed with the heart attack. The heart attack itself is not *Maradhul Maut*. Numerous people recover after a heart attack, and go about their daily work as usual. *The confinement to bed which precludes recovery is Maradhul Maut.*

The sickness, be it cancer or heart problem or diabetes, etc., is irrelevant in the determination of *Maradhul Maut*. The final confinement to bed is *Maradhul Maut*. A person may be suffering from cancer for less than a year, but he is strong and healthy outwardly. He is daily outside doing rigorous work. The cancer does not prevent him from his normal operations. Then long before expiry of the year, he is shot by robbers and is confined to bed. After a few days in bed, he dies. It will be preposterous to say that his *Maradhul Maut* had commenced six months ago when cancer was diagnosed. It is as clear as daylight that his *Maradhul Maut* began when he was shot. If he had not been shot, he would still have been strong and healthy doing his work.

Regarding Mabsoot's ibaaarat (page 168, Vol.6), firstly, the *mardh* mentioned here refers to a sickness which has confined the person to bed. If he is not confined to bed, and he does go about his daily activities, such sickness will not be *Maradhul Maut*.

Secondly, in the scenario posited in Mabsoot, the person who is confined to bed is afflicted with another sickness or an act which kills him, viz., execution. As far as the *qatl* is concerned, it is merely the final act which took his life during his *Maradhul Maut*. The execution in this case is not *Maradhul Maut*. Regardless of the manner he died or was killed, the fact is that he died during the sickness which had confined him to bed.

Since he did not recover from the illness which had initially confined him to bed, there remains the distinct possibility that his death was due to the initial sickness, and this possibility also relates to the second sickness which developed whilst he was confined to bed. In this scenario stated in Mabsoot, the first sickness is still regarded as *Maradhul Maut* because he had not recovered from the sickness. If he had recovered from the sickness sufficiently to allow him to go about his duties outside the home, then even if the terminal sickness (e.g. cancer) remained, any new sickness confining him to bed will be his *Maradhul Maut*. That means that all his *Tasarrufaat* in the post recovery period will be valid despite not being cured from cancer. His *Tasarrufaat* will not be valid from the time the new sickness confines him to bed and in which he dies.

Isa Ibn Abaan, however, simply attributed the cause of death to the new development (sickness or execution), hence he negated the first illness which had confined the person to bed. But, logically his view is incorrect because a new sickness developing during the duration of being confined to bed does not negate the first sickness. It merely aggravates it. Similarly, the act of execution does not negate the first illness. Execution is not recovery from illness. Thus, the fact remains that the person died during *Maradhul Maut* which is the sickness which confined him to bed. One can recover sufficient health to act

like a normal healthy person despite the presence of the terminal sickness.

In the English paragraph on page 2 of your letter, the view attributed to Allaamah Sarakhsi as mentioned in his Mabsoot refutes the conclusion which you arrived at in the last paragraph of page 1 of your letter, and it confirms that the *mardh* he mentioned on page 168 of Vol 6 (first paragraph of your letter on page 2) means a sickness from which the person did not recover. The second sickness developed whilst he was bedridden, hence it cannot be said with *qat'iyyat* (*absolute certitude*) that the second sickness was in fact the cause of death. Confirming this, Allaamah Sarakhsi says: “*And, sometimes Maut can have two causes.*”

On the basis of the two-lined ibaaat in Shaami cited by you, and on the basis of your conclusion, I shall venture to say that Allaamah Shaami's attempt at reconciling the conflicting views is weak, and cannot be practically implemented because a person can be terminally ill for many years, and carrying out his duties quite normally. Heart problem, diabetes, cancer and other diseases are in this category. How can we say that the lady who had cancer for 50 years was in *Maradhul Maut* since 1955 when she attended to work inside and outside the home for all these decades, and became bedridden only a week or two prior to her Maut? It is illogic and lacks Shar'i daleel. It is Allaamah Shaami's opinion which is untenable. The other view of the Fuqaha is best. It is logical and poses no dilemma.

In conclusion: The simplest and easiest view which is substantiated by most of the Fuqaha, and which is logical, is that *Maradhul Maut* is the sickness which confines one to bed and in which state Maut claims one. Being confined to bed signifies deterioration of the sickness – the patient taking a turn for the worse. And, Allah knows best.

RESPONSE TO A BUZRUG'S OBJECTION

The Buzrug's letter of Objection:

A buzrug writes: "I had the privilege and benefit of reading pages 32 and 33 of your book, *Kitaabul Meeraath*, relating to the point of commencement of marad al mawt. At the bottom of page 33, the following is stated: "an illness which does not confine a person to bed, is not Maradhul Maut...His Maradhul Maut commences from the day he becomes bedridden, ultimately dying in that illness."

This conclusion, that is, to be bedridden is a prerequisite or a condition for the commencement of marad al mawt, is not correct. The fuqaha are unanimous that no consideration is given to the fact that a person is bedridden, in determining whether he or she is in marad al mawt, or not.

The position is summarized in Fataawa Hindiyyah at the beginning of the sixth chapter dealing with the "Admissions of a sick person, and his actions." (*Kitaabul Iqraar*) The relevant text, freely translated, reads as follows: "the (fuqaha) have discussed the demarcation of marad al mawt. The chosen position is for fatwa: if death is the probable result, (of the sickness), then this constitutes marad al mawt, irrespective of the fact that the patient is bedridden or not."

Article 1595 of Al Majallah, the well-known Hanafi code, expressly states that the fact that a patient is bedridden or not, is irrelevant. Please also see raddul muhtaar, which explicitly states that to be bedridden is not a condition, for the determination of marad al mawr. (Vol.3, page 384, Darul Fikr)."

OUR RESPONSE

What is mentioned in Fataawa Hindiyyah is correct. What is mentioned in our Kitaabul Meeraath is correct. What you have mentioned is incorrect. You have simply, for some peculiar reason known to yourself, latched on to the one word, '*bedridden*' appearing only once in the entire explanation of *Maradhul Maut* appearing in our *Kitaabul Meeraath*. After latching on to this word, you failed to observe or understand the context in which it is stated. Then you weaved around the term your own theory which you attribute to us.

Nowhere in the article did we say that the factor of being bedridden is a *shart (imperative condition)* for *Maradhul Maut*. But, you have read this baseless conclusion into our text which you have not understood due to your haste to score some points. There is no support for your contention in the kutub you have cited.

Is it mentioned anywhere in the entire discussion of *Maradhul Maut* in our *Kitaabul Meeraath* that '*bedridden*' is a condition for the commencement of *Maradhul Maut*? Did you also have the '*privilege and benefit*' of reading page 34 of our Kitaab? If not, why? If yes, then why have you failed to understand the context in which the word '*bedridden*' was employed?

And, why were you oblivious of the preceding paragraph which explains the context? If you had reflected momentarily, you would not have failed to understand that the term '*bedridden*' is the same as the term '*deterioration leading to death*' which appears in the preceding paragraph and which is actually the *tafseer* of '*bedridden*' in the light of the context.

The factor of being bedridden was not mentioned as a *shart* by us for the commencement of *Maradhul Maut* in general. It merely referred to a particular case of *Maradhul Maut* in which the term *bedridden* signifies deterioration of the

prolonged state of the sickness. *Mufeedul Waaritheen*, the kitaab from which the mas'alah was extracted states: “*A sickness in which the patient performs Salaat as usual, goes to the Musjid and to the market for his needs or he does some work at home and was not **bedridden**, will not be Maradhul Maut from its beginning.Maradhul Maut will begin from the day the sickness deteriorates (becomes severe) leading to death.*”

The author of *Mufeedul Waaritheen* is Hadhrat Maulana Sayyid Asghar Husain (rahmatullah alayh), Shaikhul Hadith of Darul Uloom Deoband.

There are various scenarios for *Maradhul Maut*, which are explained with clarity in our Kitaab, but which for some queer reason you overlooked, ignored or failed to digest. For your edification, we present the scenarios of *Maradhul Maut* which should assist you in the comprehension of the context of our usage of the term, ‘bedridden’.

- (1) Disaster strikes a ship/aircraft. The *Maradhul Maut* of the passengers will commence from *the time when hope of life vanishes*. The issue of being bedridden is not applicable here.
- (2) A man is sentenced to death. The commencement of his *Maradhul Maut* is *from the moment he is led to the gallows*, and this crucial moment signifying his *Maradhul Maut* is from the time he is taken from his abode of imprisonment for execution. The issue of being bedridden is not applicable here.
- (3) The *Maradhul Maut* of a woman who dies whilst giving birth *commences from the time her labour pangs begin*. The factor of being bedridden is likewise not applicable in this case.
- (4) The *Maradhul Maut* of people dying in a plague will commence from the time they are afflicted by the disease.

Participation in daily activities will not negate *the commencement* for people afflicted in a plague. The issue of being bedridden is not applicable here too.

These four scenarios are mentioned in our *Kitaabul Meeraath*, the privilege and benefit of which you had savoured without digesting. If the usage of the term 'bedridden' by us to convey the idea that it was a *shart for Maradhul Maut in general*, it would have applied to the four scenarios mentioned above. But such a conclusion would be obviously absurd.

The context in which the term appears clearly refers to a particular case which we reproduce from our *Kitaabul Meeraath*:

*"An illness which endures for a year or more will not be Maradhul Maut. The last illness (i.e. Maradhul Maut) of such a person will be from the time the illness deteriorated. Thus **deterioration** leading to death, will be the determining factor for (the commencement) of Maradhul Maut in cases of prolonged illness of a year or more. All operations (dealings-tasarrufaat) in his wealth prior to the date of **deterioration** will be fully valid."*

Innumerable people are afflicted with terminal diseases which endure for years. Zaid was diagnosed with cancer 5 years ago, but he goes about his normal duties as usual. His sickness does not preclude him from his work, Salaat at the Musjid, etc. Now when does his *Maradhul Maut* commence? Shall it be said that his *Maradhul Maut* began from the time he was positively diagnosed with cancer or any other terminal disease? Then on this basis, shall it be said that all his monetary dealings, gifts, endowments, etc., etc. effected during his 5 year sickness are null and void? No authority has issued such a preposterous decree.

But, there has to be a point of demarcation, from which point onwards his dealings will be curtailed or annulled. And that point is **the moment of deterioration** of the sickness which culminates in his Maut (Death). Stating this fact, Fataawa Hindiyyah which you have cited mentioning this crucial period, says: *“It is sickness in which the overwhelming probability (ghaalib) is death.”* Badaaius Sanaa’i explains it as: *“Maradhul Maut is the sickness in which Maut is usually feared.”* The same definition is given in all the kutub.

Now in the light of the above, reflect in our statement from which you have uplifted the term ‘bedridden’:

*“Similarly, an illness which does not confine a person to bed, is not Maradhul Maut. If during the illness he is able to perform Salaat as usual and attend to other duties and activities, such sickness will not be Maradhul Maut. **His Maradhul Maut commences from the day he becomes bedridden, ultimately dying in that illness.**”*

The person described in this passage is terminally ill, but his sickness, due to the factors explained in the passage, is not *Maradhul Maut*. Now later when he dies, there is a need to determine when exactly his *Maradhul Maut* had commenced. His *Maradhul Maut* commenced from the moment his sickness deteriorated to the degree of incapacitating him and confining him to bed. Confinement to bed – becoming bedridden – is normal when the sickness takes a turn for the worse. When the sickness becomes severe, the patient does not remain standing and sitting. He is confined to bed. Thus, *bedridden* in the context as applicable to this particular scenario is synonymous with *deterioration* which constrains confinement to bed – which makes a man bedridden. The preceding paragraph clearly states the point of demarcation, viz. **“deterioration leading to death is the determining factor.”** Being confined to the physical bed has not been said to be the determining factor.

If a person falls sick and is confined to bed, then without recovering he dies, when shall it be said that his *Maradhul Maut* had commenced? Prior to being bedridden or from the moment he was bedridden? Common sense is ample to answer this simple question. There is no conundrum involved. In the context in which the term appears in *Kitaabul Meeraath* it means the event of **deterioration**. It was not cited as an imperative condition (*shart*) for the commencement of *Maradhul Maut*.

For your further edification, we mention the views of some Fuqaha to discount your claim of *Ijma'*.

* “Maradhul Maut is the sickness which incapacitates the patient and he becomes **bedridden**...

Similarly, when he (the patient) becomes **bedridden**... Similarly, are those who are paralysed, have tuberculosis, terminal illness, etc. When the sickness is prolonged, he will be in the category of a healthy person. ...Therefore such illness is not *Maradhul Maut* except when his (the patient's) condition **deteriorates** as a result of the sickness, and he dies in consequence of that change (of deterioration). Thus, the condition of deterioration will be *Maradhul Maut* because when the sickness changes (deteriorates) death is feared usually, hence it will be *Maradhul Maut*.” (*Badaaius Sanaai'*)

When the patient takes a turn for the ‘worse’, he usually becomes bedridden.

* “If he (the terminally ill patient) becomes **bedridden** after it (i.e. his prolonged illness), it (the factor of being bedridden) will be like a new sickness (which brings about death, hence *Maradhul Maut* commences from the moment he is confined to bed).”

If he makes a gift at the time when this state (of being bedridden) has afflicted him and he dies during this period, it

(the gift) will be from one third of his estate when he became **bedridden**". (Hidaayah)

* "The demarcation of *Maradhul Maut* is that he becomes **bedridden**, incapacitated by the sickness... Similarly, has Qudoori narrated (in his Sharh) – He has stipulated as a condition that the patient be **bedridden**. And, some Mashaikh of Balkh have adopted this view (of bedridden being a condition), and (also) some of the Mashaikh of *Maa-waraun Nahr* (i.e. the Fuqaha beyond the River Oxus) – May Allah have mercy on them – to the extent that according to them a person who becomes afflicted with stomach pain (and then dies as a result), it (this sickness) will not be *Maradhul Maut*." (It will not be *Maradhul Maut* without the condition of being **bedridden**. Thus, the effect is that all his dealing during this sickness will be valid since the event of *Maradhul Maut* had not occurred to him. ...

In Al-Jaamius Sagheer it appears: When the sickness **deteriorates**, he will be in the hukm of the sick (in his final illness)." (*Al-Muheetul Burhaani*)

In any prolonged sickness, the demarcation will be **deterioration**. Being bedridden from the point of deterioration is a normal consequence.

* If he (the assaulted patient about to die) confesses to a debt he owes his killer, then if (at that point) he was **bedridden** until he died, then his confession is not valid (because being **bedridden** is indicative of *Maradhul Maut*)... Even though the wound (inflicted by someone) is the cause of death, nevertheless, he does not become a sick person (in the state of *Maradhul Maut*) as long as he does not become **bedridden**... Thus, when he is not **bedridden**, he will be in the category of a healthy person (i.e. in law, hence his sickness will not be

Maradhul Maut). When he becomes **bedridden**, then he will be a *mareedh* (i.e. a sick person in the state of *Maradhul Maut*).”
(Mabsoot Sarakhsi)

Your citation of Raddul Muhtaar (Shaami) does not support your contention of *Ijma'*. The following appears in Durrul Mukhtaar: “...*When the sickness of paralysis and tuberculosis is prolonged, and it does not confine him to bed (i.e. does not make him **bedridden**), then he is like a healthy person (for the validity of his monetary dealings).*” It follows that if the terminally ill person becomes **bedridden** culminating in death, his *Maradhul Maut* will be from the time he became **bedridden**.

In Raddul Muhtaar, in the section dealing with *Talaaq* of the sick person, it appears: “*In Hidaayah it is explained that he becomes **bedridden**. In Nurul Ain: Abul Laith said: ‘The patient being bedridden is not a condition. The determinant is the overwhelming understanding that death is due to this sickness.....Imaam Muhammad mentioned in Al-Asl some masaa-il which indicate that the condition (for a sickness to be Maradhul Maut) is the overwhelming fear of death, not that he becomes bedridden.*”

Allaamah Shaami then says: “*I say: Sometimes a sickness is prolonged for a year or more. Therefore it is not called Maradhul Maut even though death occurs during this (prolonged sickness), Furthermore, sometimes the sick person may die because of another factor, e.g. murder. Thus, it is imperative for there to be a demarcating point on which the ahkaam will be structured.*”

The point of demarcation for a patient with a terminal illness is the time when his sickness deteriorates and he becomes bedridden leading to his death. The factor of being **bedridden** is simply the point of demarcation. There are many points of

demarcation by which *Maradhul Maut* is determined in the variety of scenarios culminating in death.

In *Kitaabul Wasaaya* of Raddul Muhtaar, the issue is explained as follows: “*The text of Az-Zailaee opposes it. He has explicitly said: If the sickness is not prolonged, his (the patient’s) dealings will be from one third (the value of the estate) when he was **bedridden** and dying from it during his days (of being bedridden) because death became feared for him from its beginning (i.e. from the beginning of being bedridden). And, if he becomes **bedridden** after a prolonged illness, then that is like a newly developed sickness rendering his dealings valid in one third. This is according to the view of the Shaarih.*”

In appears in Al-Mi’raaj: ‘Saahbnul Manzumah was asked about the demarcating point of Maradhul Maut. He said: ‘The views of the Mashaikh are numerous in this issue. Our reliance in this matter is on the view of Al-Fadhli.’”

In *Al-Majmoo’*, Imaam Nawawi (rahmatullah alayh) says:

“*If this type of illness (i.e. prolonged illness) such as leprosy, paralysis, tuberculosis, etc. **confines the patient to bed**, then it is a feared (sickness, i.e. causing death). Auzaaee, Thauri, Maalik, Abu Hanifah and His Ashaab, Abu Thaur and Ahmad (rahmatullah alayhim) said: ‘Verily, the wasiyyat (bequest) of the leper and paralysed is from one third (his estate) based on both being **bedridden**.’*”

In *Al-Mughni*, Ibn Qudaamah states:

“*Prolonged diseases which debilitate a person **confining him to bed**, are feared (i.e. causing death), otherwise not.”* That is, if it does not make him bedridden, it will not be *Maradhul Maut*.

Continuing, Ibn Qudaamah says: “*If this type of illness (prolonged illness) **confines the patient to bed**, then it will be feared (to cause death). If the patient is not **bedridden**, but he is*

up and about, then his gifts will be from his entire estate. (i.e. If he is not bedridden, then the sickness will not be Maradhul, and if he is bedridden, it will be Maradhul Maut, hence the dealings will be valid in only one third the estate). Al-Qaadhi said: 'This is established view of the Math-hab (of Imaam Ahmad Bin Hambal).

*Harb narrated from Imaam Ahmad regarding the wasiyyat of a leper and a paralyzed person, that it is from one third. This ruling is based on the fact of them being **bedridden** (i.e. when they become bedridden, then the wasiyyat will be in one third since it will have been made during Maradhul Maut from the time of being bedridden), and this is (also) the view of Auzaaee, Thauri, Maalik, Abu Hanifah and his Ashaab and Abu Thaur (rahmatullah alayhim).*

Refuting Imaam Shaafi's view, Ibn Qudaamah states in his Al-Mughni: *"Our daleel is that he is a **bedridden** patient whose (death) is feared. Regarding an aged person (dying), if he becomes **bedridden**, then our ruling applies (namely, from the time he becomes bedridden, it will be his Maradhul Maut).*

We trust that the spectre of **being bedridden** will not loom up in your dreams to disturb you.

These random citations debunk the *Ijma'* contention. There is copious discussion, views and differences on the issue. Your hasty claim of *Ijma'* is the effect of deficient research. Our advice is that grandiose and categorical statements should not be made on the basis of deficient research, especially when it is the intention to score points over the Ulama. This type of attitude is also dangerous for one's Imaan, for Rasulullah (sallallahu alayhi wasallam) said:

"Whoever acquires knowledge for debating with the Ulama, or for arguing with the ignoramuses, or for drawing the attention of people to him, Allah shall cast him into the Fire."